

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

JOHN S. MCINTIRE, IV.,

Defendant.

Case No. 3:08-cr-038

09CV359

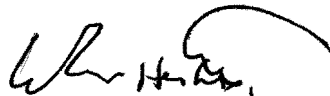
District Judge Walter Herbert Rice

Magistrate Judge Michael R. Merz

ORDER ADOPTING REPORT AND RECOMMENDATIONS ON GROUNDS ONE AND TWO

The Court has reviewed the Report and Recommendations of United States Magistrate Judge Michael R. Merz (Doc. No. 107), to whom this case was referred pursuant to 28 U.S.C. §636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) expired on January 22, 2010, hereby ADOPTS said Report and Recommendations.

It is therefore ORDERED that Defendant's Motion to Vacate be denied with prejudice. Because reasonable jurists would not disagree with this conclusion, Defendant is denied leave to appeal *in forma pauperis* and any requested certificate of appealability. The Clerk will enter judgment in favor of the United States and against Defendant, terminating this case on the docket. January 29, 2010.



Walter Herbert Rice
United States District Judge